

## **REMARKS**

### **Election/Restrictions**

The Examiner indicates that the newly submitted claim 7 is directed to an invention that is independent or distinct from the invention originally claimed because newly added claim 7 is directed to a subcombination of the original invention that would have utility in humidity detection outside of a lubrication context. Claim 7 has been canceled.

Previous claim 1 has been amended, and re-presented as new claim 8. Please note that the elements of claim 8, “removably coupled to said housing,” “a first indicating mechanism; a second indicating mechanism; said humidity sensor communicative with said first and second indicating mechanisms; said humidity sensor controlling said first indicating mechanism to illuminate when said humidity sensor detects saturated relative humidity levels below a predetermined unsafe level of saturated relative humidity; said humidity sensor controlling said second indicating mechanism to illuminate when said humidity sensor detects saturated relative humidity levels above said a predetermined unsafe level of saturated relative humidity” have been changed from previously submitted claim 1, but because the claim is presented as new, claim is not shown as an amended claim.

The remainder of the remarks reflect a response to the Examiner’s 08/23/2005 Office Action, as claim 1-6 that was the partially the subject of that Action is amended and re-presented here.

### **Drawings**

The Examiner had objected to the drawings under 37 CFR 1.83(a) for failing to show the “stand alone humidity sensing mechanism,” but has since withdrawn that objection.

The Examiner objects to the drawings as not showing the sensor being directly connected to the device. With reference to this objection, the invention as presently claimed is best depicted in Figs. 26-27C. This device, as shown at Fig. 26, reference numeral 209, is intended to be deployed at the position of a sensor, for instance by coupling the thumbscrew 209 in the position of sensor 140. In this sense, the sensor is removable, and references to “stand alone” are more appropriately construed as “removable.”

It is requested that this objection be withdrawn.

## **Specification**

The Examiner has objected to the Specification as failing to provide proper antecedent basis for the claimed subject matter, because the Examiner indicates that nowhere within the specification is a sensor directly connected to a device to be lubricated disclosed or implied.

It is the Examiner's position that the sensor is not directly coupled to the device to be lubricated, i.e., the bearings, a position with which applicant agrees. The sensing mechanism as claimed is coupled to a housing carrying the bearings, not the bearings themselves.

The device is a removable humidity sensing mechanism that is intended to be hooked up to a system requiring lubrication – for instance in place of item 140 on Fig. 1. In this sense, the device as presently claimed, is used as part of the on-line system for measuring oil described herein, as described in Figures 26 – 28, and in the specification on page 14, lines 6-30. Applicant believes the specification show every feature of the claimed invention, and withdrawal of this objection is requested.

## **Claim Rejections –35 U.S.C. §112**

Claim 1-6 were rejected for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Examiner indicated that the inventor did not have in its possession the sensor directly connected to the device for lubrication. Claims 1-6 have been cancelled, although the Applicant indicates that the Specification as filed does enable humidity sensing mechanism that is intended to be hooked up to a system requiring lubrication – for instance in place of item 140 on Fig. 1. In this sense, the device as presently claimed, is used as part of the on-line system for measuring oil described herein, as described in Figures 26 – 28, and in the specification on page 14, lines 6-30. Withdrawal of this rejection is requested.

Further, the Examiner indicates that the claims are indefinite because of the recitation of positive recitation of the enclosed spaces of the housing, and the intended use of the humidity sensing mechanism. This has been clarified in newly presented claim 8, with the enclosed spaces replaced with headspace, and the headspace not positively recited.

The humidity sensing mechanism takes its measurements from the headspace air. It is requested that this rejection be withdrawn.

## **Claim Rejections – 35 U.S.C. §102**

Claims 1-6 were rejected as anticipated based on the disclosure of the EMD-2000 humidity sensor itself. The sensor alone however, does not have the first and second indicating mechanisms

as presently claimed. Applicant does not believe the disclosed element anticipates the entire presently claimed invention. Further, the EMD-2000 is not capable of measuring a percentage of saturation of water within said lubricant by measuring said air within said housing, for an amplifier, signal processing and control circuitry are not part of the EMD-2000 sensor, and this sensor, by itself could not perform the claimed functions.

### **Claim Rejections – 35 U.S.C. §103**

Claims 1-6 were rejected under 35 U.S.C. §103(a) as being unpatentable over various combinations of Gregory et al. (U.S. Pat. No. 5,125,480) in view of Reichert (U.S. Pat. No. 5,330,636) and in view of Mizumoto et al. (U.S. Pat. No. 5,080,195). Claims 1-6 have been cancelled, with claim 1 amended and represented as claim 8.

Gregory does not disclose, much less much less teach, suggest or provide motivation, to measure water content as a lubricant condition; nor measuring water content as a percentage of saturation as a lubricant condition. Gregory wholly fails to recognize the potentially detrimental effects that water may have on lubricants.

The apparatus and method for lubricant condition control and monitoring of the present invention insure that the fluid in the equipment desired to be lubricated is of high quality. Gregory and Reichert present no means to determine lubricant condition within a device desired to be lubricated, and as indicated previously, lubricant condition in a remote reservoir can differ widely from lubricant condition in a remote machine element.

Contrary to the Examiner's suggestion, nowhere does Reichert disclose measuring water content as a percentage of saturation as a lubricant condition.

Further, it would not have been obvious to fixture the sensors of Reichert within the enclosed space of Gregory. Gregory and Reichert do not contemplate *in situ* measurement. Gregory and Reichert essentially attempt to insure that fluid sent out to a device is of high quality. Measuring only fluid that is sent out to a device can be an inaccurate portrayal of fluids as they reside within machine elements. Often the machine elements desired to be lubricated are large distances away from a lubricant reservoir supplying lubricant to the machine element. Contaminants can enter the system through a variety of means, and temperature and humidity can vary widely between the lubricant reservoir and the machine element.

The Examiner "provided no evidence to support that statement, and such conclusory statements are not sufficient to support a prima facie case of obviousness." See *In re Lee*, 277 F.3d

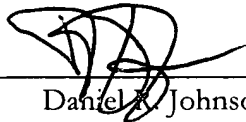
1338, 1343-44, 61 USPQ2d 1430, 1433-34 (Fed. Cir. 2002) (in reviewing an obviousness rejection, the court noted that “conclusory statements” as to teaching, suggestion or motivation to arrive at the claimed invention “do not adequately address the issue.”).

Furthermore, the Examiner’s recitation of Mizumoto likewise does not provide the necessary indicia of obviousness, for, as the Examiner has indicated, nowhere does Mizumoto disclose measuring water content as a percentage of saturation as a lubricant condition.

None of the prior art discloses measuring water content as a percentage of saturation as a lubricant condition. Therefore, the Examiner has not carried the burden of establishing a *prima facie* case of obviousness based upon the prior art. In re Fritch, 972 F.2d 1260, 1265, 23 USPQ2d 1780, 1783 (Fed. Cir. 1992).

Accordingly, allowance of the newly presented claim 8 is respectfully requested.

Respectfully Submitted,

By  \_\_\_\_\_  
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